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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,590	09/25/2006	Manfred Gunthner	115596-149083	8705

25943 7590 12/08/2008  
SCHWABE, WILLIAMSON & WYATT, P.C.  
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PORTLAND, OR 97204

EXAMINER
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WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

MAIL DATE	DELIVERY MODE
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12/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/588,590	<b>Applicant(s)</b> GUNTNER ET AL.	
	<b>Examiner</b> Alfred Joseph Wujciak III	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-34 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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This is the first Office Action for the serial number 10/588,590, JOINING DEVICE FOR AN ACTUATING LEVER AND SUPPORTING ELEMENT OF A VALVE OPERATING MECHANISM OF AN INTERNAL COMBUSTION ENGINE, filed on 9/25/06.

***Election/Restrictions***

Applicant's election with traverse of group III in the reply filed on 11/21/08 is acknowledged. The traversal is on the ground(s) that the office action did not state any reasons for why inventions I and III are distinct and this does not put burden on examiner. This is not found persuasive because independent claim 16 contains a control lever which is not cited in independent claim 25, therefore claim 16 is distinct from claim 25 which put burden on examiner to search outside of the art unit to find the control lever.

The requirement is still deemed proper and is therefore made FINAL.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

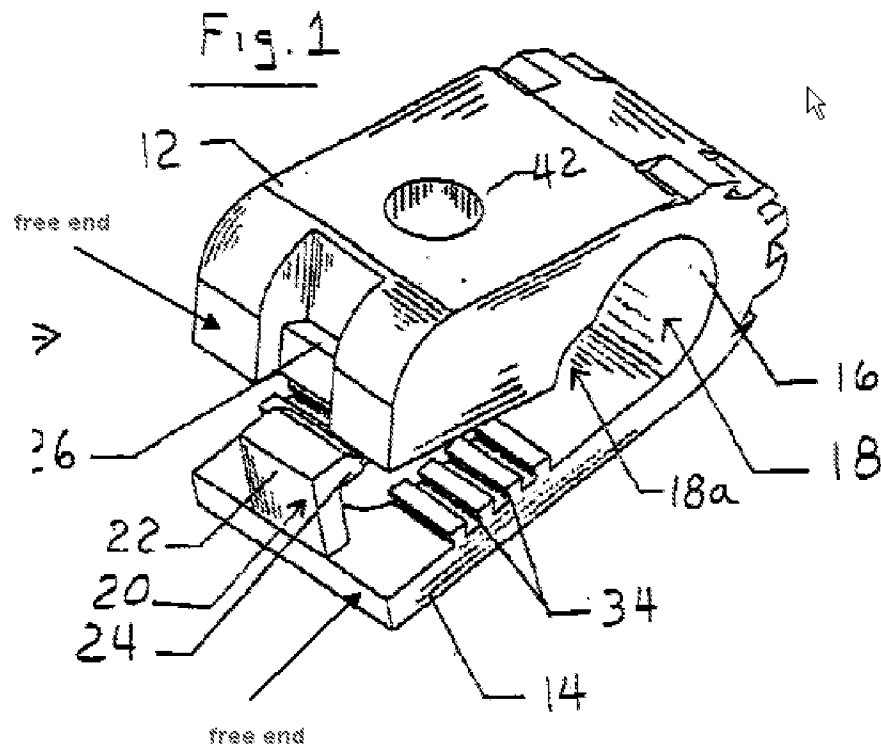
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 25, 27-28 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent # 6,732,983 to Blake et al.

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Blake et al. teaches an upper leg (12) having an essentially round geometrically closed first opening (42), a lower leg (14) having an essentially slot-shaped geometrically closed second opening (44, column 3, lines 50-51) and a connecting section (16) connected to the upper and lower legs to form a U-shaped cross-sectional geometry. The upper and lower legs have free ends and wherein the free ends point away from each other. The second opening in the lower leg has a stadium-like geometry including two parallel opening sections connected via semi-circular opening sections. A second separation distance between the lower leg and the upper leg near the connection section is greater than a first separation distance between a second free end of the lower leg and a first free end of the upper leg (occurs when the first leg is mounted on the second leg with element 22 locking on element 26).

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### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 26 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blake et al.

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Blake et al. teaches the upper and lower legs having free ends but fails to teach the free ends have lead-in chamfers. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the free ends with lead-in chamfers to provide ornament appearance of the free ends.

Regarding to claims 30-31 and 33, Blake et al. teaches the width of second opening/2<sup>nd</sup> connection radius and a diameter in the first opening/support element but fails to teach the width of the second opening/2<sup>nd</sup> connection radius is smaller than the diameter of the first opening/support element. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the width of the second opening/2<sup>nd</sup> connection radius smaller than the diameter in the first opening/support element to provide snugly fit for a fastener in the slot.

In regard to claim 32, Blake et al. teaches the upper leg but fails to teach the upper leg is axially shorter than the lower leg. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified the length of upper leg to be shorter than the lower leg to provide ornament appearance of the device.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blake et al. in view of US Patent # 4,676,203 to Nouno.

Blake et al. teaches the semi-circular opening sections but fails to teach the semi-circular opening having slot-like extensions. Nouno teaches the slot-like extension. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added slot-like extension to Blake et al.'s semi-circular opening section as taught by Nouno to provide additional space in the slot for allowing a fastener to adjust therein before tighten it.

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Blake et al. in view of Nouno teaches slot-like extension but fails to teach additional slot-like extension. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional slot-like extension to provide additional space in the slot for allowing a fastener to adjust therein before tighten it.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 2,666,245 to Fernberg

US Patent # 7,322,551 to Simonsen

US Patent # 5,596,792 to Shelton

US Patent # 3,501,117 to Soltysik

US Patent # 3,312,444 to De Sena

Fernberg, Simonsen, Shelton, Soltysik and De Sena teach clip for mounting on an object.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on 571-272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alfred Joseph Wujciak III/  
Primary Examiner, Art Unit 3632  
12/5/08